

FPS-013

DATE: October 12, 2006

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 06-4065

Davila-Bajana v. Holohan
(W. D. of PA No. 04-0253)

To: Clerk

1) Application to Proceed In Forma Pauperis

The foregoing motion to proceed in forma pauperis is granted. Appellant is a prisoner and seeks to proceed in forma pauperis on appeal. Appellant is required to pay the full \$455.00 fee in installments regardless of the outcome of the appeal. Appellant has completed and filed the required authorization form permitting the appropriate prison officials to assess, collect and forward to the District Court the filing and docketing fees for this appeal pursuant to 28 U.S.C. §§ 1915(b)(1) and (2). The Court hereby directs the warden or his or her designee to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to the prisoner's account; or (b) the average monthly balance in the prisoner's account for the six month period immediately preceding the filing of the notice of appeal. The warden, or his or her designee, shall calculate, collect, and forward the initial payment assessed in this order to the United States District Court for the Western District of Pennsylvania. In each succeeding month when the amount in the prisoner's account exceeds \$10.00, the warden, or his or her designee, shall forward payments to the United States District Court for the Western District of Pennsylvania equaling 20% of the preceding month's income credited to the prisoner's account until the fees are paid. Each payment shall reference the appellate docket number for this appeal. The appeal will be submitted to a panel of this court for determination under 28 U.S.C. § 1915(e)(2).

This appeal will be submitted to a panel of the Court for determination of whether it should be dismissed for lack of jurisdiction. The Court will also consider any other appropriate action, such as determination of this appeal under 28 U.S.C. § 1915(e)(2) and/or affirmance of the order of the District Court. See Third Circuit Internal Operating Procedure 10.6.

For the Court

/s/Marcia M. Waldron
A True Copy
Clerk

Marcia M. Waldron

Marcia M. Waldron, Clerk

Dated: October 12, 2006

tmk/cc: Mr. Juan Davila-Bajana
Robert L. Eberhardt, Esq.